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MEMORANDUM FOR: Chief, Audit Staff

FROM: James H. McDonald
Director of Logistics

SUBJECT: GAO Report to Congress on Auditor Findings -
FGMSD 79-3, October 25, 1978

REFERENCE: (a) Ltr to Admiral Turner, dtd Oct 25, 1978,
fm Elmer Staats

(b) Ltr to Elmer Staats, dtd 9 Nov 78, fm
DDCI

1. Action Requested: None. This is in reply to an oral
request from Mr. [REDACTED] of the IG Audit Staff.

2. Background:

During the week of 27 November 1978 Mr. [REDACTED] of your Audit Staff met with Mr. [REDACTED] Chief, Procurement Management Staff, Office of Logistics, to discuss the subject report. Said report, now published by GAO, includes data on unresolved costs on CIA industrial contracts for the period 1 January 1974 through 21 March 1977. Data on other Federal Government agencies is also included.

Data in the report was solicited from the Chief, Commercial Systems and Audit Division, Office of Finance, and provided to GAO under cover of a memorandum signed by John Waller, Inspector General, apparently in late July or early August. Although the unresolved costs are on CIA industrial contracts for which the Director of Logistics has primary responsibility, we are unaware of any coordination with our office prior to release of data.

Reference (a) transmitted a copy of the subject report to CIA and requested comments. It also cited Section 236 of the Legislative Reorganization Act of 1970 which requires the head of a Federal agency to submit a written statement on actions taken on GAO recommendations within 60 days. Mr. Carlucci, in reference (b) has provided the required reply.

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The subject report includes six specific recommendations (Attachment) for action.

3. Staff Position:

While the Office of Logistics does not believe that information released to GAO on unresolved costs on CIA contracts, in this instance, has been damaging, we note that it has been Agency policy in the past not to release either specific or general information on our industrial contracts except to oversight committees or through cognizant committees in the Congress. While we are aware of GAO authorities, we believe that future releases of data on any aspect of the CIA contracting process or the resulting contracts should be coordinated with the Director of Logistics.

STATINTL Mr. [REDACTED] has indicated that concern now exists regarding the adequacy of Mr. Carlucci's reference (b) letter to GAO. We suggest that no further reply be made unless GAO indicates that Mr. Carlucci's reply is unsatisfactory and comes back to CIA for further information.

With regard to our position on the six specific recommendations, we have listed the recommendations on Attachment along with our comments.

4. Recommendation: We have included specific comments on Attachment for each of the GAO recommendations. Other more general recommendations are: (1) that future releases of information on CIA contracting processes or contracts be coordinated with the Director of Logistics; (2) that the reference (b) letter from Mr. Carlucci be continued as CIA's official response to reference (a), and (3) that any OMB bulletin resulting from the GAO recommendation include the Director of Logistics for comment.

STATINT

[REDACTED]
James H. McDonald

Attachment

cc: DDA

Attachment

RECOMMENDATIONS

GAO recommends to each of the agencies having audit staffs that the following system for resolving audit findings be established:

1. Agency auditors be required to keep accurate records of all findings until a final disposition has been made--where recovery of funds is involved this means until the funds are recovered, the debt forgiven, or the finding determined to be in error.

Comment None; this is an Office of Finance matter.

2. Program administrators be given 6 months to reach decisions on what amount, if any, is due from grantees or contractors as the result of audit findings. Written decisions signed by the program administrator be required to justify not seeking collection of any amounts shown to be due by the auditors' report. Such decisions should also be reviewed for legality and endorsed by the legal official who performs the review.

Comment GAO has used the term program administrator without definition which is apparently an attempt to cover the operation of both grants and contracts. In our system the price decision would be made by the contracting officer. Such decisions are routinely subjected to legal review. The 6-month limit is probably okay on questions involving costs on final audits. This procedure cannot apply for interim audit questions.

3. An official independent of the program administrator and the auditor be responsible for deciding whether to make recoveries on findings not decided on within the 6-month time frame specified above. Any decisions not to recover should be justified by the official and reviewed for legality as previously mentioned. GAO believes this official, who should be at a high level in the organization, could also handle resolution of audit findings not involving grantees or contractors that are not resolved within a 6-month period.

Comment While not a formal written procedure or regulation, decisions not to recover costs or other cost questions which cannot be resolved by our contracting officers are already referred to the Director of Logistics or his designee, Chief, Procurement Management Staff for resolution. Written findings, concurred

in by legal, accompany such decisions. While the Director of Logistics accepts responsibility for resolution of cost questions or other problems regarding contractors or grantees, we do not believe he should handle resolution of audit findings not involving grantees or contractors. Those latter types of questions are better resolved by the Office of the Inspector General.

4. Such officials be required to issue quarterly reports to the agency head on the status of all findings which they are responsible for resolving, including the age and amounts of unresolved findings and results of findings they closed during the period.

Comment: We believe that our total problem of unresolved costs (\$279,386 over a period of almost 3 years) is small and does not warrant quarterly reporting to the DCI. We would suggest that such data be maintained by the Director of Logistics and included in his regular annual report to the DDA on procurement activities.

5. To insure aggressive recovery efforts, GAO recommends that accounting and collection controls be established for any amounts due the Government as a result of audit findings.

Comment: We nonconcur with this recommendation as written. Audit findings are advisory only, with the final determination on contract price being made by the contracting officer or, as stated in recommendation 3 above, by the Director of Logistics, or his designee, Chief, Procurement Management Staff. Lacking erroneous payments or overpayments, there can be no amount due until the final price decision is made.

Also with regard to this recommendation, primary responsibility for determination and collection of a contract debt is on the contracting officer except that disbursing officers have such responsibility when erroneous payments or overpayments are made by the disbursing office in excess of amounts due the contractor under the terms of the contract at the time of payment.

6. If the agency decides against collection for any reason, then it should take action to resolve the underlying causes which resulted in the debt. These can include providing technical assistance to help grantees improve operation of the program or changing ambiguous or conflicting regulations which impede accomplishing program objectives.

Comments: Concur.

Unnumbered: GAO also recommends that OMB make appropriate changes to its management circular to establish the requirements recommended above.

Comment: OMB circulars are routinely routed for comment prior to issuance. Office of Logistics should be granted an opportunity to comment on any such issuance.

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